

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

ROBERT EARL COUNCIL,)	
)	
Plaintiff,)	
)	
v.)	CIVIL CASE NO. 2:23-cv-658-ECM
)	
COMMISSIONER JOHN HAMM, <i>et al.</i> ,)	
)	
Defendants.)	

ORDER

Now pending before the Court is the Plaintiff's motion for a writ of habeas corpus ad testificandum (doc. 23) filed on November 22, 2023. The Defendants oppose the motion. (Doc. 29 at 1). The Plaintiff filed the instant motion in the late afternoon of the day before a federal holiday, which was nine days after the Court's order setting the preliminary injunction hearing. Such a relatively late request compounds the logistical challenges raised by the Defendants in transporting the Plaintiff to the preliminary injunction hearing. (*See id.* at 2–3). Moreover, the Defendants represent to the Court that they can facilitate the Plaintiff's virtual participation in the hearing (*id.* at 3) and the Plaintiff has not adequately shown that his virtual participation would be unduly burdensome. Therefore, upon consideration of the motion, and for good cause, it is

ORDERED that the Plaintiff's motion for a writ of habeas corpus ad testificandum (doc. 23) is DENIED. It is further

ORDERED that the Plaintiff is permitted to attend and testify via video conference at the hearing on the motion for preliminary injunction set on November 30, 2023. By

permitting the Plaintiff to testify by video conference, the Court is not ruling on the relevance or admissibility of the Plaintiff's testimony. Counsel for the parties are DIRECTED to coordinate with the undersigned's courtroom deputy, Cindy Sanders, at least two hours prior to the hearing to ensure the necessary equipment is in place and operable.

Done this 28th day of November, 2023.

/s/ Emily C. Marks
EMILY C. MARKS
CHIEF UNITED STATES DISTRICT JUDGE